

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 851

FINAL READING

Introduced by Banking, Commerce and Insurance Committee: Pahls, 31, Chairperson; Carlson, 38; Christensen, 44; Gay, 14; Hansen, 42; Langemeier, 23; Pankonin, 2; Pirsch, 4.

Read first time January 11, 2008

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to banking and finance; to amend sections
2 8-224, 8-374, 8-2106, 25-202, and 64-214, Reissue
3 Revised Statutes of Nebraska, sections 8-115.01, 8-116,
4 8-120, 8-122, 8-143.01, 8-157, 8-223, 8-234, 8-910,
5 8-1510, 8-2102, 45-703, 45-704, 45-907, 45-922, and
6 45-1006, Revised Statutes Cumulative Supplement, 2006,
7 sections 8-1,140, 8-355, 21-17,115, 45-702, and 45-722,
8 Revised Statutes Supplement, 2007, section 9-506,
9 Uniform Commercial Code, Reissue Revised Statutes of
10 Nebraska, and section 9-324, Uniform Commercial Code,
11 Revised Statutes Cumulative Supplement, 2006; to change
12 provisions relating to bank charters, undivided profits,

1 and trust companies and trust departments; to change
2 certain notice requirements with respect to bank charter
3 and branching applications; to change provisions relating
4 to loans to executive officers of banks; to change
5 provisions relating to actions for the recovery of
6 title or possession of real estate or foreclosure of
7 mortgages; to provide for the foreclosure of deeds of
8 trust; to allow bank employees and agents to perform
9 acknowledgments of written instruments and administer
10 oaths as prescribed; to revise powers of state-chartered
11 banks, building and loan associations, and credit unions;
12 to change provisions relating to bank holding company
13 ownership limitations, interstate mergers, and interstate
14 branching by merger; to change provisions relating to
15 the Mortgage Bankers Registration and Licensing Act, the
16 Delayed Deposit Services Licensing Act, and the Nebraska
17 Installment Loan Act; to change provisions relating to
18 priority of purchase-money security interests and the
19 effect of errors and omissions in a financing statement;
20 to eliminate provisions relating to the investment of
21 funds by fiduciaries; to provide operative dates; to
22 repeal the original sections; to outright repeal section
23 30-3206, Reissue Revised Statutes of Nebraska; and to
24 declare an emergency.

25 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-115.01, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 8-115.01 When an application required by section 8-120 is
4 made by a corporation, the following procedures shall be followed:

5 (1) Except as provided for in subdivision (2) of this
6 section, when application is made for a new bank charter, a public
7 hearing shall be held on each application. Notice of the filing
8 of the application shall be published by the department for three
9 weeks in a legal newspaper published in or of general circulation
10 in the county where the applicant proposes to operate the bank.
11 The date for hearing the application shall be not less than thirty
12 days after the last publication of notice of hearing and not more
13 than ninety days after ~~filing~~ the application has been accepted
14 for filing by the director as substantially complete unless the
15 applicant agrees to a later date. Notice of the filing of the
16 application shall be sent by the department to all financial
17 institutions located in the county where the applicant proposes to
18 operate;

19 (2) When application is made for a new bank charter
20 and the director determines, in his or her discretion, that the
21 conditions of subdivision (3) of this section are met, then the
22 public hearing requirement of subdivision (1) of this section shall
23 only be required if, (a) after publishing a notice of the proposed
24 application in a newspaper of general circulation in the county
25 where the main office of the applicant is to be located and (b)

1 after giving notice to all financial institutions located within
2 such county, the director receives a substantive objection to the
3 application within fifteen days after the first day of publication;

4 (3) The director shall consider the following in each
5 application before the public hearing requirement of subdivision
6 (1) of this section may be waived:

7 (a) Whether the experience, character, and general
8 fitness of the applicant and of the applicant's officers and
9 directors is such as to warrant belief that the applicant will
10 operate the business honestly, fairly, and efficiently;

11 (b) Whether the length of time that the applicant or a
12 majority of the applicant's officers, directors, and shareholders
13 have been involved in the business of banking in this state has
14 been for a minimum of five consecutive years; and

15 (c) Whether the condition of financial institutions
16 currently owned by the applicant, the applicant's holding company,
17 if any, or the applicant's officers, directors, or shareholders is
18 such as to indicate that a hearing on the current application would
19 not be necessary;

20 (4) Except as provided in subdivision (6) of this
21 section, when application is made for transfer of a bank charter
22 and move of the main office of a bank to any location other
23 than within the corporate limits of the city or village of its
24 original charter or, if such bank charter is not located in a city
25 or village, then for transfer outside the county in which it is

1 located, the director shall hold a hearing on the matter if he
2 or she determines, in his or her discretion, that the condition
3 of the applicant warrants a hearing. If the director determines
4 that the condition of the applicant does not warrant a hearing,
5 the director shall (a) publish a notice of the filing of the
6 application in a newspaper of general circulation in the county
7 where the proposed main office and charter of the applicant would
8 be located and (b) give notice of such application to all financial
9 institutions located within the county where the proposed main
10 office and charter would be located and to such other interested
11 parties as the director may determine. If the director receives
12 any substantive objection to the proposed relocation within fifteen
13 days after the first day of publication, he or she shall hold
14 a hearing on the application. Notice of a hearing held pursuant
15 to this subdivision shall be published for two consecutive weeks
16 in a newspaper of general circulation in the county where the
17 main office would be located. The date for hearing the application
18 shall be not less than thirty days after the last publication of
19 notice of hearing and not more than ninety days after the ~~filing~~
20 ~~of the application~~ has been accepted for filing by the director
21 as substantially complete unless the applicant agrees to a later
22 date. When the persons making application for transfer of a main
23 office and charter are officers or directors of the bank, there is
24 a rebuttable presumption that such persons are parties of integrity
25 and responsibility;

1 (5) Except as provided in subdivision (6) of this
2 section, when application is made for a move of any bank's
3 main office within the city, village, or county, if not chartered
4 within a city or village, of its original charter, the director
5 shall publish notice of the proposed move in a newspaper of general
6 circulation in the county where the main office of the applicant
7 is located and shall give notice of such intended move to all
8 financial institutions located within the county where such bank is
9 located. If the director receives a substantive objection to such
10 move within fifteen days after publishing such notice, he or she
11 shall publish an additional notice and hold a hearing as provided
12 in subdivision (1) of this section;

13 (6) With the approval of the director, a bank may move
14 its main office and charter to the location of a branch of the
15 bank without public notice or hearing as long as (a) the condition
16 of the bank, in the discretion of the director, does not warrant
17 a hearing and (b) the branch (i) is located in Nebraska, (ii) has
18 been in operation for at least one year as a branch of the bank
19 or was acquired by the bank pursuant to section 8-1506 or 8-1516,
20 and (iii) is simultaneously relocated to the original main office
21 location;

22 (7) The director shall send any notice to financial
23 institutions required by this section by ~~certified mail~~ first-class
24 mail, postage prepaid, or electronic mail. Electronic mail may be
25 used if the financial institution agrees in advance to receive such

1 notices by electronic mail;

2 (8) The expense of any publication and ~~certified~~ mailing
3 required by this section shall be paid by the applicant; and

4 (9) Notwithstanding any provision of this section, the
5 director shall take immediate action on any charter application
6 or applications concerned without the benefit of a hearing in the
7 case of an emergency so declared by the Governor, the Secretary of
8 State, and the director.

9 Sec. 2. Section 8-116, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 8-116 (1) A charter for a bank hereafter organized shall
12 not be issued unless the corporation applying therefor shall have
13 a surplus of not less than ~~fifty~~ seventy thousand dollars or
14 ~~fifty~~ seventy percent of its paid-up capital stock, whichever
15 is greater, and a paid-up capital stock as follows: In villages
16 or counties of less than one thousand inhabitants, one hundred
17 thousand dollars; in cities, villages, or counties of one thousand
18 or more and less than twenty-five thousand inhabitants, not less
19 than one hundred fifty thousand dollars; in cities or counties of
20 twenty-five thousand or more and less than one hundred thousand
21 inhabitants, not less than two hundred thousand dollars; and in
22 cities or counties of one hundred thousand or more inhabitants,
23 not less than five hundred thousand dollars. ~~Such corporation shall~~
24 ~~also have minimum paid-in undivided profits of not less than twenty~~
25 ~~percent of its paid-up capital stock.~~

1 (2) Notwithstanding subsection (1) of this section, the
2 department shall have the authority to determine the minimum
3 amount of paid-up capital stock, and surplus, and ~~paid-in undivided~~
4 ~~profits~~ required for any corporation applying for a bank charter,
5 which amounts shall not be less than the amounts provided in
6 subsection (1) of this section.

7 (3) For purposes of this section, population shall be
8 determined by the most recent federal decennial census.

9 Sec. 3. Section 8-120, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 8-120 (1) Every corporation organized for and desiring
12 to conduct a bank or to conduct a bank for purposes of a merger
13 with an existing bank shall make under oath and transmit to the
14 department a complete detailed application giving (a) the name
15 of the proposed bank; (b) a certified copy of the articles of
16 incorporation; (c) the names of the stockholders; (d) the county,
17 city, or village and the exact location therein in which such
18 bank is proposed to be located; (e) the nature of the proposed
19 banking business; (f) the proposed amounts of paid-up capital
20 stock, and surplus, and ~~undivided profits~~, and the items of actual
21 cash and property, as reported and approved at a meeting of the
22 stockholders, to be included in such amounts; and (g) a statement
23 that at least twenty percent of the amounts stated in subdivision
24 (f) of this subsection have in fact been paid in to the corporation
25 by its stockholders.

1 (2) In the case of a merger, the existing bank which
2 is to be merged into shall complete an application and meet the
3 requirements of this section.

4 (3) This section also applies when application is made
5 for transfer of a bank charter and move of a bank's main office to
6 any location other than (a) within the corporate limits of the city
7 or village of its original charter, (b) within the county in which
8 it is located if such bank charter is not located in a city or
9 village, or (c) as provided in subdivision (6) of section 8-115.01.

10 Sec. 4. Section 8-122, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 8-122 (1) After the examination and approval by the
13 department of the application required by section 8-120, if the
14 department upon investigation and after any public hearing on the
15 application held pursuant to section 8-115.01 shall be satisfied
16 that the stockholders and officers of the corporation applying
17 for such charter are parties of integrity and responsibility, that
18 the requirements of section 8-702 have been met, and that the
19 public necessity, convenience, and advantage will be promoted by
20 permitting such corporation to engage in business as a bank, the
21 department shall, upon the payment of the required fees, and, upon
22 the filing with the department of a statement, under oath, of the
23 president, secretary, or treasurer, that the paid-up capital stock,
24 and surplus, ~~and undivided profits~~ have been paid in, as determined
25 by the department in accordance with section 8-116, issue to such

1 corporation a charter to transact the business of a bank in this
2 state provided for in its articles of incorporation. In the case of
3 a bank organized to merge with an existing bank, there shall be a
4 rebuttable presumption that the public necessity, convenience, and
5 advantage will be met by the merger of the two banks, except that
6 such presumption shall not apply when the new bank that is formed
7 by the merger is at a different location than that of the former
8 existing bank. Any application for merger under this subsection
9 shall be subject to section 8-1516.

10 (2) On payment of the required fees and the receipt of
11 the charter, such corporation may begin to conduct a bank.

12 Sec. 5. Section 8-143.01, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 8-143.01 (1) No bank shall extend credit to any of its
15 executive officers, directors, or principal shareholders or to any
16 related interest of such persons in an amount that, when aggregated
17 with the amount of all other extensions of credit by the bank to
18 that person and to all related interests of that person, exceeds
19 the higher of twenty-five thousand dollars or five percent of the
20 bank's unimpaired capital and unimpaired surplus unless (a) the
21 extension of credit has been approved in advance by a majority vote
22 of the entire board of directors of the bank, a record of which
23 shall be made and kept as a part of the records of such bank, and
24 (b) the interested party has abstained from participating directly
25 or indirectly in such vote.

1 (2) No bank shall extend credit to any of its executive
2 officers, directors, or principal shareholders or to any related
3 interest of such persons in an amount that, when aggregated with
4 the amount of all other extensions of credit by the bank to that
5 person and to all related interests of that person, exceeds five
6 hundred thousand dollars except by complying with the requirements
7 of subdivisions (1)(a) and (b) of this section.

8 (3) No bank shall extend credit to any of its executive
9 officers, ~~licensed pursuant to section 8-139,~~ and no such executive
10 officer shall borrow from or otherwise become indebted to his or
11 her bank, except in the amounts and for the purposes set forth in
12 subsection (4) of this section.

13 (4) A bank shall be authorized to extend credit to any of
14 its executive officers: ~~licensed pursuant to section 8-139.~~

15 (a) In any amount to finance the education of such
16 executive officer's children;

17 (b)(i) In any amount to finance or refinance the
18 purchase, construction, maintenance, or improvement of a residence
19 of such executive officer if the extension of credit is secured
20 by a first lien on the residence and the residence is owned or
21 is expected to be owned after the extension of credit by the
22 executive officer and (ii) in the case of a refinancing, only the
23 amount of the refinancing used to repay the original extension of
24 credit, together with the closing costs of the refinancing, and any
25 additional amount thereof used for any of the purposes enumerated

1 in this subdivision are included within this category of credit;

2 (c) In any amount if the extension of credit is
3 (i) secured by a perfected security interest in bonds, notes,
4 certificates of indebtedness, or Treasury Bills of the United
5 States or in other such obligations fully guaranteed as to
6 principal and interest by the United States, (ii) secured by
7 unconditional takeout commitments or guarantees of any department,
8 agency, bureau, board, commission, or establishment of the United
9 States or any corporation wholly owned directly or indirectly
10 by the United States, or (iii) secured by a perfected security
11 interest in a segregated deposit account in the lending bank; or

12 (d) For any other purpose not specified in subdivisions
13 (a), (b), and (c) of this subsection if the aggregate amount of
14 such other extensions of credit to such executive officer does not
15 exceed, at any one time, the greater of two and one-half percent of
16 the bank's unimpaired capital and unimpaired surplus or twenty-five
17 thousand dollars, but in no event greater than one hundred thousand
18 dollars or the amount of the bank's lending limit as prescribed in
19 section 8-141, whichever is less.

20 (5) (a) Except as provided in subdivision (b) or (c) of
21 this subsection, any executive officer licensed pursuant to section
22 ~~8-139~~ shall make, on an annual basis, a written report to the
23 board of directors of the bank of which he or she is an executive
24 officer stating the date and amount of all loans or indebtedness on
25 which he or she is a borrower, cosigner, or guarantor, the security

1 therefor, and the purpose for which the proceeds have been or are
2 to be used.

3 (b) Except as provided in subdivision (c) of this
4 subsection, in lieu of the reports required by subdivision (a)
5 of this subsection, the board of directors of a bank may obtain a
6 credit report from a recognized credit agency, on an annual basis,
7 for any or all of its executive officers, ~~licensed pursuant to~~
8 ~~section 8-139.~~

9 (c) Subdivisions (a) and (b) of this subsection do not
10 apply to any executive officer ~~licensed pursuant to section 8-139~~
11 if such officer is excluded by a resolution of the board of
12 directors or by the bylaws of the bank from participating in the
13 major policymaking functions of the bank and does not actually
14 participate in the major policymaking functions of the bank.

15 (6) No bank shall extend credit to any of its executive
16 officers, directors, or principal shareholders or to any related
17 interest of such persons in an amount that, when aggregated with
18 the amount of all other extensions of credit by the bank to that
19 person and to all related interests of that person, exceeds the
20 lending limit of the bank as prescribed in section 8-141.

21 (7)(a) Except as provided in subdivision (b) of this
22 subsection, no bank shall extend credit to any of its executive
23 officers, directors, or principal shareholders or to any related
24 interest of such persons unless the extension of credit (i) is
25 made on substantially the same terms, including interest rates and

1 collateral, as, and following credit-underwriting procedures that
2 are not less stringent than, those prevailing at the time for
3 comparable transactions by the bank with other persons that are not
4 covered by this section and who are not employed by the bank and
5 (ii) does not involve more than the normal risk of repayment or
6 present other unfavorable features.

7 (b) Nothing in subdivision (a) of this subsection shall
8 prohibit any extension of credit made by a bank pursuant to a
9 benefit or compensation program under the provisions of 12 C.F.R.
10 215.4(a)(2).

11 (8) For purposes of this section:

12 (a) Executive officer shall mean a person who
13 participates or has authority to participate, other than in the
14 capacity of director, in the major policymaking functions of the
15 bank, whether or not the officer has an official title, the title
16 designates such officer as an assistant, or such officer is serving
17 without salary or other compensation. Executive officer shall
18 include the chairperson of the board of directors, the president,
19 all vice presidents, the cashier, the corporate secretary, and
20 the treasurer, unless the executive officer is excluded by a
21 resolution of the board of directors or by the bylaws of the bank
22 from participating, other than in the capacity of director, in
23 the major policymaking functions of the bank, and the executive
24 officer does not actually participate in such functions. A manager
25 or assistant manager of a branch of a bank shall not be considered

1 to be an executive officer unless such individual participates or
2 is authorized to participate in the major policymaking functions
3 of the bank; and

4 (b) Unimpaired capital and unimpaired surplus shall mean
5 the sum of:

6 (i) The total equity capital of the bank reported on its
7 most recent consolidated report of condition filed under section
8 8-166;

9 (ii) Any subordinated notes and debentures approved as an
10 addition to the bank's capital structure by the appropriate federal
11 banking agency; and

12 (iii) Any valuation reserves created by charges to the
13 bank's income reported on its most recent consolidated report of
14 condition filed under section 8-166.

15 (9) Any executive officer, director, or principal
16 shareholder of a bank or any other person who intentionally
17 violates this section or who aids, abets, or assists in a violation
18 of this section shall be guilty of a Class IV felony.

19 (10) The Director of Banking and Finance shall have
20 authority to adopt and promulgate rules and regulations to
21 implement this section, including rules or regulations defining
22 or further defining terms used in this section, consistent with the
23 provisions of 12 U.S.C. 84 and implementing Regulation O.

24 Sec. 6. Section 8-157, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 8-157 (1) Except as otherwise provided in this section
2 and section 8-2104, the general business of every bank shall be
3 transacted at the place of business specified in its charter.

4 (2) (a) (i) Except as provided in subdivision (2) (a) (ii) of
5 this section, with the approval of the director, any bank located
6 in this state may establish and maintain in this state an unlimited
7 number of branches at which all banking transactions allowed by law
8 may be made.

9 (ii) Any bank that owns or controls more than twenty-two
10 percent of the total deposits in Nebraska, as described in
11 subdivision (2) (c) of section 8-910 and computed in accordance
12 with subsection (3) of section 8-910, or any bank that is a
13 subsidiary of a bank holding company that owns or controls more
14 than twenty-two percent of the total deposits in Nebraska, as
15 described in subdivision (2) (c) of section 8-910 and computed
16 in accordance with subsection (3) of section 8-910, shall not
17 establish and maintain an unlimited number of branches as provided
18 in subdivision (2) (a) (i) of this section. With the approval of the
19 director, a bank as described in this subdivision may establish and
20 maintain in the county in which such bank is located an unlimited
21 number of branches at which all banking transactions allowed by law
22 may be made, except that if such bank is located in a Class I or
23 Class III county, such bank may establish and maintain in Class I
24 and Class III counties an unlimited number of branches at which all
25 banking transactions allowed by law may be made.

1 (iii) Any bank which establishes and maintains branches
2 pursuant to subdivision (2)(a)(i) of this section and which
3 subsequently becomes a bank as described in subdivision (2)(a)(ii)
4 of this section shall not be subject to the limitations as to
5 location of branches contained in subdivision (2)(a)(ii) of this
6 section with regard to any such established branch and shall
7 continue to be entitled to maintain any such established branch
8 as if such bank had not become a bank as described in subdivision
9 (2)(a)(ii) of this section.

10 (b) With the approval of the director, any bank or any
11 branch may establish and maintain a mobile branch at which all
12 banking transactions allowed by law may be made. Such mobile branch
13 may consist of one or more vehicles which may transact business
14 only within the county in which such bank or such branch is located
15 and within counties in this state which adjoin such county.

16 (c) For purposes of this subsection:

17 (i) Class I county means a county in this state with a
18 population of three hundred thousand or more as determined by the
19 most recent federal decennial census;

20 (ii) Class II county means a county in this state with
21 a population of at least two hundred thousand and less than three
22 hundred thousand as determined by the most recent federal decennial
23 census;

24 (iii) Class III county means a county in this state with
25 a population of at least one hundred thousand and less than two

1 hundred thousand as determined by the most recent federal decennial
2 census; and

3 (iv) Class IV county means a county in this state with a
4 population of less than one hundred thousand as determined by the
5 most recent federal decennial census.

6 (3) With the approval of the director, a bank may
7 establish and maintain branches acquired pursuant to section 8-1506
8 or 8-1516. All banking transactions allowed by law may be made at
9 such branches.

10 (4) With the approval of the director, a bank may acquire
11 the assets and assume the deposits of a branch of another financial
12 institution in Nebraska if the acquired branch is converted to a
13 branch of the acquiring bank. All banking transactions allowed by
14 law may be made at a branch acquired pursuant to this subsection.

15 (5) With the approval of the director, a bank may
16 establish a branch pursuant to subdivision (6) of section 8-115.01.
17 All banking transactions allowed by law may be made at such branch.

18 (6) The name given to any branch established and
19 maintained pursuant to this section shall not be substantially
20 similar to the name of any existing bank or branch which is
21 unaffiliated with the newly created branch and is located in the
22 same city, village, or county. The name of such newly created
23 branch shall be approved by the director.

24 (7) A bank which has a main chartered office or an
25 approved branch located in the State of Nebraska may, through any

1 of its executive officers, including executive officers licensed
2 as such pursuant to section 8-139, or designated agents, conduct
3 a loan closing at a location other than the place of business
4 specified in the bank's charter or any branch thereof.

5 (8) A bank which has a main chartered office or approved
6 branch located in the State of Nebraska may, upon notification
7 to the department, establish savings account programs at any
8 elementary or secondary school, whether public or private, that
9 has students who reside in the same city or village as the
10 main chartered office or branch of the bank, or, if the main
11 office of the bank is located in an unincorporated area of a
12 county, at any school that has students who reside in the same
13 unincorporated area. The savings account programs shall be limited
14 to the establishment of individual student accounts and the receipt
15 of deposits for such accounts.

16 (9) Upon receiving an application for a branch to be
17 established pursuant to subdivision (2)(a) of this section, to
18 establish a mobile branch pursuant to subdivision (2)(b) of this
19 section, to acquire a branch of another financial institution
20 pursuant to subsection (4) of this section, or to move the location
21 of an established branch other than a move made pursuant to
22 subdivision (6) of section 8-115.01, the director shall hold a
23 public hearing on the matter if he or she determines, in his or
24 her discretion, that the condition of the applicant bank warrants
25 a hearing. If the director determines that the condition of the

1 bank does not warrant a hearing, the director shall (a) publish a
2 notice of the filing of the application in a newspaper of general
3 circulation in the county where the proposed branch or mobile
4 branch would be located, the expense of which shall be paid by
5 the applicant bank, and (b) give notice of such application to
6 all financial institutions located within the county where the
7 proposed branch or mobile branch would be located and to such other
8 interested parties as the director may determine. The director
9 shall send the notice to financial institutions by ~~certified mail~~
10 first-class mail, postage prepaid, or electronic mail. Electronic
11 mail may be used if the financial institution agrees in advance to
12 receive such notices by electronic mail. If the director receives
13 any substantive objection to the proposed branch or mobile branch
14 within fifteen days after publication of such notice, he or she
15 shall hold a hearing on the application. Notice of a hearing held
16 pursuant to this subsection shall be published for two consecutive
17 weeks in a newspaper of general circulation in the county where
18 the proposed branch or mobile branch would be located. The date
19 for hearing the application shall not be more than ninety days
20 after the filing of the application and not less than thirty days
21 after the last publication of notice of hearing. The expense of any
22 publication and ~~certified~~ mailing required by this section shall be
23 paid by the applicant.

24 Sec. 7. Section 8-1,140, Revised Statutes Supplement,
25 2007, is amended to read:

1 8-1,140 Notwithstanding any of the other provisions of
2 the Nebraska Banking Act or any other Nebraska statute, any bank
3 incorporated under the laws of this state and organized under
4 the provisions of the act, or under the laws of this state as
5 they existed prior to May 9, 1933, shall directly, or indirectly
6 through a subsidiary or subsidiaries, have all the rights, powers,
7 privileges, benefits, and immunities which may be exercised as of
8 ~~March 20, 2007,~~ the operative date of this section, by a federally
9 chartered bank doing business in Nebraska, including the exercise
10 of all powers and activities that are permitted for a financial
11 subsidiary of a federally chartered bank. Such rights, powers,
12 privileges, benefits, and immunities shall not relieve such bank
13 from payment of state taxes assessed under any applicable laws of
14 this state.

15 Sec. 8. Section 8-223, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 8-223 (1) The trust company shall file with the
18 Department of Banking and Finance during the months of January and
19 July of each year a statement under oath of the condition of the
20 trust company on the last business day of the preceding December
21 and June in the manner and form required by the department. For
22 purposes of the Nebraska Trust Company Act, the trust company's
23 annual report shall be deemed to be the report filed with the
24 Department of Banking and Finance during the month of January.

25 (2) Any trust company that fails, neglects, or refuses to

1 make or furnish any report or any published statement required by
2 the Nebraska Trust Company Act shall pay to the department fifty
3 dollars for each day such failure continues, unless the department
4 extends the time for filing such report.

5 (3) The filing requirements of this section shall not
6 apply to the trust department of a bank if the report of condition
7 of the trust department is included in the reports of the bank
8 required by the Nebraska Banking Act.

9 Sec. 9. Section 8-224, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 8-224 (1) The reports required by section 8-223 shall
12 be verified by one of the managing officers, and a summary of
13 the annual report, in a form prescribed by the Department of
14 Banking and Finance, shall, within thirty days after the filing
15 of the statement with the department, be published in a newspaper
16 of general circulation in the county where the trust company is
17 chartered.

18 (2) The publication required by this section shall not
19 apply to any trust company that makes an annual disclosure
20 statement available to any member of the general public upon
21 request in accordance with the following provisions:

22 (a) The annual disclosure statement shall be in a form
23 prescribed by the department;

24 (b) In the lobby of its main office, in every branch
25 trust office, and in every representative trust office, the trust

1 company shall at all times display a notice that the annual
2 disclosure statement may be obtained from the trust company;

3 (c) If the trust company maintains an Internet web site,
4 the home page of the web site shall at all times contain a notice
5 that the annual disclosure statement may be obtained from the trust
6 company;

7 (d) The notice described in subdivisions (b) and (c)
8 of this subsection shall include, at a minimum, an address
9 and telephone number to which requests for an annual disclosure
10 statement may be made;

11 (e) The first requested copy of the annual disclosure
12 statement shall be provided to a requester free of charge; and

13 (f) A trust company shall make its annual disclosure
14 statement available to the public beginning not later than the
15 following March 31 or, if the trust company mails an annual
16 disclosure statement to its shareholders, beginning not later than
17 five days after the mailing of the disclosure statement, whichever
18 occurs first. A trust company shall make its annual disclosure
19 statement available continuously until (i) the annual disclosure
20 statement for the succeeding year becomes available or (ii) a
21 summary of its annual report is published for the succeeding year
22 in accordance with this section.

23 (3) The publication required by this section shall not
24 apply to reports of the trust department of a bank if the report of
25 condition of the trust department is included in the reports of the

1 bank required by the Nebraska Banking Act.

2 Sec. 10. Section 8-234, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 8-234 (1) With the approval of the Director of Banking
5 and Finance, a corporation organized to do business as a trust
6 company under the Nebraska Trust Company Act may establish and
7 maintain branch trust offices within this state and in any other
8 state pursuant to section 8-2303.

9 (2) A corporation organized to do business as a trust
10 company under the Nebraska Trust Company Act, in order to establish
11 a branch trust office in Nebraska pursuant to subsection (1) of
12 this section, shall apply to the Director of Banking and Finance on
13 a form prescribed by the director. Upon receipt of a substantially
14 complete application, the director shall hold a public hearing on
15 the matter if he or she determines, in his or her discretion,
16 that the condition of the corporation organized to do business
17 as a trust company warrants a hearing. If the director determines
18 that the condition of the corporation organized to do business
19 as a trust company does not warrant a hearing, the director
20 shall (a) publish a notice of the filing of the application in a
21 newspaper of general circulation in the county where the proposed
22 branch trust office would be located, ~~the expense of which shall~~
23 ~~be paid by the corporation organized to do business as a trust~~
24 ~~company,~~ and (b) give notice of such application for a branch trust
25 office to all financial institutions within the county where the

1 proposed branch trust office would be located and to such other
2 interested parties as the director may determine. The director
3 shall send the notice to financial institutions by ~~certified mail~~
4 first-class mail, postage prepaid, or electronic mail. Electronic
5 mail may be used if the financial institution agrees in advance to
6 receive such notices by electronic mail. If the director receives
7 a substantive objection to the proposed branch trust office within
8 fifteen days after publication of such notice, he or she shall hold
9 a hearing on the application. Notice of a hearing held pursuant
10 to this subsection shall be published for two consecutive weeks
11 in a newspaper of general circulation in the county where the
12 proposed branch trust office would be located. The expense of any
13 publication and ~~certified~~ mailing required by this section shall be
14 paid by the applicant. The date for hearing the application shall
15 not be more than ninety days after the filing of the application
16 and not less than thirty-one days after the last publication of
17 notice of hearing. The costs of the hearing shall be assessed in
18 accordance with the rules and regulations of the Department of
19 Banking and Finance.

20 (3) The director shall approve the application for a
21 branch trust office if he or she finds that (a) the establishment
22 of the branch trust office would not adversely affect the financial
23 condition of the corporation organized to do business as a trust
24 company, (b) there is a need in the community for the branch trust
25 office, and (c) establishment of the branch trust office would be

1 in the public interest.

2 (4) With the approval of the director, a state-chartered
3 bank authorized to conduct a trust business pursuant to sections
4 8-159 to 8-162 may establish and maintain branch trust offices
5 within this state and in any other state pursuant to section
6 8-2303. The procedure for the establishment of any branch trust
7 office under this subsection shall be the same as provided in
8 subsections (2) and (3) of this section. The activities at the
9 branch trust office shall be limited to the activities permitted by
10 the Nebraska Trust Company Act, and the general business of banking
11 shall not be conducted at the branch trust office. Nothing in this
12 subsection is intended to prohibit the establishment of a branch
13 pursuant to section 8-157 at which trust business may be conducted.

14 (5) A branch trust office of a corporation organized to
15 do business as a trust company or of a state-chartered bank shall
16 not be closed without the prior written approval of the director.

17 Sec. 11. Section 8-355, Revised Statutes Supplement,
18 2007, is amended to read:

19 8-355 Notwithstanding any of the provisions of Chapter
20 8, article 3, or any other Nebraska statute, except as provided
21 in section 8-345.02, any association incorporated under the laws
22 of the State of Nebraska and organized under the provisions
23 of such article shall have all the rights, powers, privileges,
24 benefits, and immunities which may be exercised as of ~~March 20,~~
25 2007, the operative date of this section, by a federal savings

1 and loan association doing business in Nebraska. Such rights,
2 powers, privileges, benefits, and immunities shall not relieve
3 such association from payment of state taxes assessed under any
4 applicable laws of this state.

5 Sec. 12. Section 8-374, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 8-374 Prior to issuing a certificate of approval, the
8 department, upon receiving an application for a stock savings and
9 loan association, shall publish notice of filing of the application
10 for a period of three weeks in a legal newspaper published in or
11 of general circulation in the county where the applicant proposes
12 to operate the savings and loan association. ~~The expense of the~~
13 ~~publication shall be paid by the applicant.~~ A public hearing shall
14 be held on each application. The date for hearing the application
15 shall be not more than ninety days after filing the application and
16 not less than thirty days after the last publication of notice.
17 Such hearing shall be held to determine:

18 (1) Whether the articles of incorporation and bylaws
19 conform to the requirements of sections 8-356 to 8-384 and contain
20 a just and equitable plan for the management of the association's
21 business;

22 (2) Whether the persons organizing such association are
23 of good character and responsibility;

24 (3) Whether in the department's judgment a need exists
25 for such an institution in the community to be served;

1 (4) Whether there is a reasonable probability of its
2 usefulness and success; and

3 (5) Whether the same can be established without undue
4 injury to properly conducted existing local savings and loan
5 associations, whether mutual or capital stock in formation.

6 The expense of any publication required by this section
7 shall be paid by the applicant.

8 Sec. 13. Section 8-910, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 8-910 (1) It shall be unlawful, except as provided in
11 this section, for:

12 (a) Any action to be taken that causes any company to
13 become a bank holding company;

14 (b) Any action to be taken that causes a bank to become a
15 subsidiary of a bank holding company;

16 (c) Any bank holding company to acquire direct or
17 indirect ownership or control of any voting shares of any bank if,
18 after such acquisition, such company will directly or indirectly
19 own or control more than twenty-five percent of the voting shares
20 of such bank;

21 (d) Any bank holding company or subsidiary thereof, other
22 than a bank, to acquire all or substantially all of the assets of
23 a bank; or

24 (e) Any bank holding company to merge or consolidate with
25 any other bank holding company.

1 (2) The prohibition set forth in subsection (1) of this
2 section shall not apply if:

3 (a) (i) The bank holding company is registered with the
4 department as of September 29, 1995, as a bank holding company for
5 any bank or banks; or (ii) the bank holding company registers with
6 the department in accordance with the provisions of section 8-913
7 as a bank holding company;

8 (b) The bank holding company does not have a name
9 deceptively similar to an existing unaffiliated bank or bank
10 holding company located in Nebraska;

11 (c) Upon any action referred to in subsection (1) of this
12 section and subject to subsection (3) of this section, the bank or
13 banks so owned or controlled would have deposits in Nebraska in an
14 amount no greater than twenty-two percent of the total deposits of
15 all banks in Nebraska plus the total deposits, savings accounts,
16 passbook accounts, and shares in savings and loan associations and
17 building and loan associations in Nebraska as determined by the
18 director on the basis of the most recent midyear reports, except as
19 provided in subsections (4), and (5), and (6) of this section;

20 (d) The bank holding company is adequately capitalized
21 and adequately managed;

22 (e) The bank holding company complies with sections
23 8-1501 to 8-1505 if the bank or banks to be acquired are chartered
24 in this state under the Nebraska Banking Act; and

25 (f) The bank holding company, if an out-of-state bank

1 holding company, complies with the limitations of section 8-911.

2 (3) If any person, association, partnership, limited
3 liability company, or corporation owns or controls twenty-five
4 percent or more of the voting stock of any bank holding company
5 acquiring a bank and any such person, association, partnership,
6 limited liability company, or corporation owns or controls
7 twenty-five percent or more of the voting stock of any other
8 bank or bank holding company in Nebraska, then the total deposits
9 of such other bank or banks and of all banks in Nebraska owned
10 or controlled by such bank holding company shall be included in
11 the computation of the total deposits of a bank holding company
12 acquiring a bank.

13 (4) A bank or bank holding company which acquires and
14 holds all or substantially all of the voting stock of one credit
15 card bank under sections 8-1512 and 8-1513 shall not have such
16 acquisition count against the limitations set forth in subdivision
17 (2)(c) of this section.

18 (5) A bank holding company which acquired an institution
19 or which formed a bank which acquired an institution under sections
20 8-1506 to 8-1510 or which acquired any assets and liabilities
21 from the Resolution Trust Corporation or the Federal Deposit
22 Insurance Corporation prior to January 1, 1994, shall not have such
23 acquisition or formation count against the limitations set forth in
24 subdivision (2)(c) of this section.

25 (6) A bank which accepts deposits from nonresidents of

1 Nebraska and voluntarily segregates the reporting of such deposits
2 in such a manner as to allow the director to determine the amounts
3 of such deposits shall not have such deposits count against the
4 limitations set forth in subdivision (2)(c) of this section. The
5 bank shall report the amount of such deposits, if so segregated, to
6 the director prior to October 1 of each year.

7 Sec. 14. Section 8-1510, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 8-1510 (1) The Director of Banking and Finance may permit
10 cross-industry acquisition or merger of one or more financial
11 institutions under its supervision upon the application of such
12 institutions to the Department of Banking and Finance. The
13 application shall be made on forms prescribed by the department.

14 (2) Except as provided for in subsection (3) of this
15 section, when an application is made for such an acquisition
16 or merger, notice of the filing of the application shall be
17 published by the department three weeks in a legal newspaper
18 in or of general circulation in the county where the applicant
19 proposes to operate the acquired or merged financial institution.
20 A public hearing shall be held on each application. The date
21 for hearing the application shall be not more than ninety days
22 after the filing of the application and not less than thirty
23 days after the last publication of notice after the examination
24 and approval by the department of the application. If the
25 department, upon investigation and after public hearing on the

1 application, is satisfied that the stockholders and officers of the
2 financial institution applying for such acquisition or merger are
3 parties of integrity and responsibility, that the requirements of
4 section 8-702 have been met or some alternate form of protection
5 for depositors has been met, and that the public necessity,
6 convenience, and advantage will be promoted by permitting such
7 acquisition or merger, the department shall, upon payment of the
8 required fees, issue to such institution an order of approval for
9 the acquisition or merger.

10 (3) When application is made for cross-industry
11 acquisition or merger and the director determines, in his or
12 her discretion, that the financial condition of the financial
13 institution surviving the acquisition or merger is such as to
14 indicate that a hearing on the application would not be necessary,
15 then the hearing requirement of subsection (2) of this section
16 shall only be required if, (a) after publishing a notice of the
17 proposed application in a newspaper of general circulation in the
18 county or counties where the offices of the financial institution
19 to be merged or acquired are located and (b) after giving notice
20 ~~by certified mail~~ to all financial institutions located within
21 such county or counties, the director receives a substantive
22 objection to the application within fifteen days after the first
23 day of publication. The director shall send the notice to financial
24 institutions by first-class mail, postage prepaid, or electronic
25 mail. Electronic mail may be used if the financial institution

1 agrees in advance to receive such notices by electronic mail.

2 (4) The expense of any publication and ~~certified~~ mailing
3 required by this section shall be paid by the applicant.

4 Sec. 15. Section 8-2102, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 8-2102 For purposes of the Interstate Branching By Merger
7 Act of 1997, unless the context otherwise requires:

8 (1) Bank means a bank as defined in 12 U.S.C. 1813, as
9 such section existed on the operative date of this section;

10 ~~(1)~~ (2) Department means the Department of Banking and
11 Finance;

12 ~~(2)~~ (3) Director means the Director of Banking and
13 Finance;

14 ~~(3)~~ (4) Home state means (a) with respect to a state
15 chartered bank, the state in which the bank is chartered and (b)
16 with respect to a national bank, the state in which the main office
17 of the bank is located;

18 ~~(4)~~ (5) Home state regulator means, with respect to an
19 out-of-state state chartered bank, the bank supervisory agency of
20 the state in which such bank is chartered;

21 ~~(5)~~ (6) Host state means a state, other than the home
22 state of a bank, in which the bank maintains, or seeks to establish
23 and maintain, a branch;

24 ~~(6)~~ (7) Interstate merger transaction means a merger or
25 consolidation of two or more banks, at least one of which is a

1 Nebraska bank and at least one of which is an out-of-state bank,
2 and the conversion of the main office and the branches of any
3 bank involved in such merger or consolidation into branches of the
4 resulting bank;

5 ~~(7)~~ (8) Nebraska bank means a bank whose home state is
6 Nebraska;

7 ~~(8)~~ (9) Nebraska state chartered bank means a corporation
8 which is chartered to conduct a bank in this state pursuant to the
9 Nebraska Banking Act;

10 ~~(9)~~ (10) Out-of-state bank means a bank whose home state
11 is a state other than Nebraska;

12 ~~(10)~~ (11) Out-of-state state chartered bank means a bank
13 chartered under the laws of any state other than Nebraska;

14 ~~(11)~~ (12) Resulting bank means a bank that has resulted
15 from an interstate merger transaction under the Interstate
16 Branching By Merger Act of 1997; and

17 ~~(12)~~ (13) State means any state of the United States, the
18 District of Columbia, any territory of the United States, Puerto
19 Rico, Guam, American Samoa, the Trust Territory of the Pacific
20 Islands, the Virgin Islands, and the Northern Mariana Islands.

21 Sec. 16. Section 8-2106, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 8-2106 An interstate merger transaction shall not be
24 permitted if, upon consummation of such transaction, the resulting
25 bank or its bank holding company would have direct or indirect

1 ownership or control of deposits in Nebraska in excess of fourteen
2 percent of the total deposits of all banks in Nebraska, plus
3 the total deposits, savings accounts, passbook accounts, and share
4 accounts in savings and loan associations and building and loan
5 associations in Nebraska, as determined by the director on the
6 basis of the most recent calendar-year-end reports, except as
7 provided in subsection (4), ~~or (5)~~, or (6) of section 8-910.

8 Sec. 17. Section 21-17,115, Revised Statutes Supplement,
9 2007, is amended to read:

10 21-17,115 Notwithstanding any of the other provisions of
11 the Credit Union Act or any other Nebraska statute, any credit
12 union incorporated under the laws of the State of Nebraska and
13 organized under the provisions of the act shall have all the
14 rights, powers, privileges, benefits, and immunities which may
15 be exercised as of ~~March 20, 2007~~, the operative date of this
16 section, by a federal credit union doing business in Nebraska on
17 the condition that such rights, powers, privileges, benefits, and
18 immunities shall not relieve such credit union from payment of
19 state taxes assessed under any applicable laws of this state.

20 Sec. 18. Section 25-202, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 25-202 (1) An action for the recovery of the title
23 or possession of lands, tenements, or hereditaments, or for the
24 foreclosure of mortgages or the foreclosure of deeds of trust
25 as mortgages thereon, can only be brought within ten years after

1 the cause of action accrues. No limitation shall apply to the
2 time within which any county, city, town, village, other municipal
3 corporation, public power and irrigation district, public power
4 district, public irrigation district organized under Chapter 70,
5 article 6, irrigation district organized under Chapter 46, article
6 1, or natural resources district may begin an action for the
7 recovery of the title or possession of any public road, street, or
8 alley, other public or political subdivision grounds or lands, or
9 city or town lots.

10 (2) For the purposes of this section as relates only to
11 the rights and interests of subsequent purchasers and encumbrancers
12 for value:

13 (a) The cause of action for foreclosure of the mortgage
14 or foreclosure of the deed of trust as a mortgage accrues on the
15 last date of maturity of the debt or other obligation secured by
16 the mortgage or deed of trust as the date is stated in or is
17 ascertainable from the filed record of the mortgage or deed of
18 trust or the filed record of an extension of the mortgage or deed
19 of trust;

20 (b) If no date of maturity is stated or is ascertainable
21 from the filed mortgage or deed of trust or the filed extension,
22 the cause of action for foreclosure of the mortgage or foreclosure
23 of the deed of trust as a mortgage accrues no later than ~~twenty~~
24 thirty years after the date of the mortgage or deed of trust; or

25 (c) If the mortgage creditor files an affidavit to the

1 effect that the mortgage or deed of trust is unpaid and is still a
2 valid lien, the affidavit is filed before the cause of action is
3 barred under this section, and the affidavit is filed for record in
4 the office of the register of deeds, ~~the~~ the cause of action is not
5 barred until ten years after the date the affidavit is filed. The
6 period of ten years shall not be extended by nonresidence, legal
7 disability, partial payment, acknowledgment of debt, or promise to
8 pay.

9 Sec. 19. Section 45-702, Revised Statutes Supplement,
10 2007, is amended to read:

11 45-702 For purposes of the Mortgage Bankers Registration
12 and Licensing Act:

13 (1) Borrower means the mortgagor or mortgagors under a
14 real estate mortgage or the trustor or trustors under a deed of
15 trust;

16 (2) Branch office means any location at which the
17 business of a mortgage banker is to be conducted, including (a) any
18 offices physically located in Nebraska, (b) any offices that, while
19 not physically located in this state, intend to transact business
20 with Nebraska residents, and (c) any third-party or home-based
21 locations that agents and representatives intend to use to transact
22 business with Nebraska residents;

23 (3) Breach of security of the system means unauthorized
24 acquisition of data that compromises the security, confidentiality,
25 or integrity of the information maintained by a multistate

1 licensing and application system, its affiliates, or subsidiaries;

2 (4) Control means the power, directly or indirectly,
3 to direct the management or policies of a mortgage banking
4 business, whether through ownership of securities, by contract,
5 or otherwise. Any person who (a) is a director, a general partner,
6 or an executive officer, including the president, chief executive
7 officer, chief financial officer, chief operating officer, chief
8 legal officer, chief compliance officer, and any individual with
9 similar status and function, (b) directly or indirectly has the
10 right to vote ten percent or more of a class of voting security
11 or has the power to sell or direct the sale of ten percent or
12 more of a class of voting securities, (c) in the case of a limited
13 liability company, is a managing member, or (d) in the case of a
14 partnership, has the right to receive, upon dissolution, or has
15 contributed, ten percent or more of the capital, is presumed to
16 control that mortgage banking business;

17 (5) Department means the Department of Banking and
18 Finance;

19 (6) Director means the Director of Banking and Finance;

20 (7) Financial institution means any person organized
21 or chartered under the laws of this state, any other state,
22 or the United States relating to banks, savings institutions,
23 trust companies, savings and loan associations, or credit unions.
24 Financial institution also means an industrial loan and investment
25 company chartered under the laws of any other state and subject to

1 similar supervision and regulation as a bank chartered under the
2 laws of this state;

3 (8) Licensee means any person licensed under the act;

4 (9) Mortgage banker means any person not exempt under
5 section 45-703 who, for compensation or gain or in the expectation
6 of compensation or gain, directly or indirectly makes, originates,
7 services, negotiates, acquires, sells, arranges for, or offers to
8 make, originate, service, negotiate, acquire, sell, or arrange for
9 ~~ten or more mortgage loans in a calendar year;~~ a mortgage loan;

10 (10) Mortgage banking business means any person who
11 employs a mortgage banker or mortgage bankers or who directly
12 or indirectly makes, negotiates, acquires, sells, arranges for,
13 or offers to make, originate, service, negotiate, acquire, sell,
14 or arrange for ~~ten or more mortgage loans in a calendar year~~ a
15 mortgage loan for compensation or gain or in the expectation of
16 compensation or gain;

17 (11) Mortgage loan means any loan or extension of credit
18 secured by a lien on real property, including a refinancing of a
19 contract of sale or an assumption or refinancing of a prior loan or
20 extension of credit;

21 (12) Multistate licensing and application system means
22 a residential real estate mortgage licensing system data base of
23 which the department is a member;

24 (13) Offer means every attempt to provide, offer to
25 provide, or solicitation to provide a mortgage loan or any form of

1 mortgage banking business. Offer includes, but is not limited to,
2 all general and public advertising, whether made in print, through
3 electronic media, or by the Internet;

4 (14) Person means an association, joint venture,
5 joint-stock company, partnership, limited partnership, limited
6 liability company, business corporation, nonprofit corporation,
7 individual, or any group of individuals however organized;

8 (15) Real property means an owner-occupied single-family,
9 two-family, three-family, or four-family dwelling which is located
10 in this state, which is occupied, used, or intended to be occupied
11 or used for residential purposes, and which is, or is intended to
12 be, permanently affixed to the land;

13 (16) Registered bank holding company means any bank
14 holding company registered with the department pursuant to the
15 Nebraska Bank Holding Company Act of 1995;

16 (17) Registrant means a person registered pursuant to
17 section 45-704; and

18 (18) Service means accepting payments or maintenance of
19 escrow accounts in the regular course of business in connection
20 with a mortgage loan.

21 Sec. 20. Section 45-703, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 45-703 (1) Except as provided in section 45-704, the
24 following shall be exempt from the Mortgage Bankers Registration
25 and Licensing Act:

1 (a) Any financial institution or wholly owned subsidiary
2 thereof;

3 (b) Any registered bank holding company;

4 (c) Any insurance company organized under the laws
5 of this state and subject to regulation by the Department of
6 Insurance;

7 (d) Any person licensed to practice law in this state
8 who is not actively and principally engaged in the business of
9 negotiating mortgage loans when such person renders services in the
10 regular course of his or her practice as an attorney at law;

11 (e) Any person licensed in this state as a real estate
12 broker or real estate salesperson pursuant to section 81-885.02
13 who is not actively and principally engaged in the business of
14 negotiating mortgage loans when such person renders services as a
15 real estate broker or real estate salesperson;

16 (f) Any individual acting solely as an employee of a
17 mortgage banker licensed or registered pursuant to the act or
18 exempt from the act;

19 (g) Any individual acting solely as an agent of a
20 mortgage banker licensed or registered pursuant to the act or
21 exempt from the act if there is a written agency contract between
22 the individual and the licensee which provides that, with respect
23 to the mortgage banking business, the individual acts exclusively
24 for the licensee as an agent;

25 (h) Any holding company of a financial institution other

1 than a registered bank holding company;

2 (i) Any wholly owned subsidiary of an organization listed
3 in subdivisions (b) and (c) of this subsection if the listed
4 organization maintains a place of business in Nebraska; ~~and~~

5 (j) Any insurance company organized or chartered under
6 the laws of any other state if the insurance company has a place of
7 business in Nebraska; ~~and-~~

8 (k) Any individual who does not regularly engage in the
9 mortgage banking business who (i) makes a mortgage loan with his
10 or her own funds for his or her own investment, (ii) makes a
11 purchase-money mortgage, or (iii) finances the sale of his or her
12 own real property without the intent to resell the mortgage loan.

13 (2) It shall not be necessary to negate any of the
14 exemptions provided in this section in any complaint, information,
15 indictment, or other writ or proceedings brought under the act, and
16 the burden of establishing the right to any exemption shall be upon
17 the person claiming the benefit of such exemption.

18 Sec. 21. Section 45-704, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 45-704 (1) Notwithstanding any other provision of the
21 Mortgage Bankers Registration and Licensing Act, no person exempt
22 from licensing under subdivisions (1)(h) through ~~(1)(j)~~ (1)(k) of
23 section 45-703 shall act as a mortgage banker or engage in the
24 mortgage banking business until such person has registered with the
25 department.

1 (2) Any person required to register pursuant to
2 subsection (1) of this section shall submit to the department
3 a registration statement on forms provided by the department.
4 The forms shall contain such information as the department may
5 prescribe as necessary or appropriate, including, but not limited
6 to, (a) all addresses at which business is to be conducted, (b)
7 the names and titles of each director and principal officer of the
8 business, and (c) a description of the activities of the applicant
9 in such detail as the department may require.

10 (3) The registration statement required in subsection (2)
11 of this section shall be accompanied by a registration fee of two
12 hundred dollars.

13 (4) The department shall acknowledge the registration
14 by issuing to the registrant a receipt or other form of
15 acknowledgment.

16 (5) A registration under this section shall not be
17 assignable.

18 (6) After original registration, all registrations shall
19 remain in full force and effect until the next succeeding March 1.
20 Thereafter, a registration under this section may be renewed on an
21 annual basis for a renewal fee of one hundred dollars.

22 (7) If a registrant fails to renew his, her, or its
23 registration as required by this section and does not voluntarily
24 surrender the registration by delivering to the director written
25 notice of the surrender, the department may issue a notice of

1 expiration of the registration.

2 Sec. 22. Section 45-722, Revised Statutes Supplement,
3 2007, is amended to read:

4 45-722 (1) No person acting personally or as an agent
5 shall acquire control of any mortgage banking business required
6 to be licensed under the Mortgage Bankers Registration and
7 Licensing Act without first giving ~~sixty~~ thirty days' notice to the
8 department on forms prescribed by the department of such proposed
9 acquisition and paying a filing fee of two hundred dollars.

10 (2) The director, upon receipt of such notice, shall act
11 upon it within thirty days and, unless he or she disapproves the
12 proposed acquisition within that period of time, the acquisition
13 shall become effective on the ~~sixty-first~~ thirty-first day after
14 receipt without the director's approval, except that the director
15 may extend the thirty-day period an additional thirty days if,
16 in his or her judgment, any material information submitted is
17 substantially inaccurate or the acquiring party has not furnished
18 all the information required by the department.

19 (3) An acquisition may be made prior to the expiration of
20 the disapproval period if the director issues written notice of his
21 or her intent not to disapprove the action.

22 (4) (a) The director may disapprove any proposed
23 acquisition if:

24 (i) The financial condition of any acquiring person is
25 such as might jeopardize the financial stability of the acquired

1 mortgage banking business;

2 (ii) The character and general fitness of any acquiring
3 person or of any of the proposed management personnel indicates
4 that the acquired mortgage banking business would not be operated
5 honestly, soundly, or efficiently in the public interest; or

6 (iii) Any acquiring person neglects, fails, or refuses to
7 furnish all information required by the department.

8 (b) The director shall notify the acquiring party in
9 writing of disapproval of the acquisition. The notice shall provide
10 a statement of the basis for the disapproval.

11 (c) Within fifteen business days after receipt of written
12 notice of disapproval, the acquiring party may request a hearing
13 on the proposed acquisition in accordance with the Administrative
14 Procedure Act. At the conclusion of such hearing, the director
15 shall, by order, approve or disapprove the proposed acquisition on
16 the basis of the record made at the hearing.

17 Sec. 23. Section 45-907, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 45-907 (1) When an application for a delayed deposit
20 services business license has been accepted by the director as
21 substantially complete, notice of the filing of the application
22 shall be published by the director for three successive weeks in
23 a legal newspaper published in or of general circulation in the
24 county where the applicant proposes to operate the delayed deposit
25 services business. ~~The costs of the publication shall be paid by~~

1 ~~the applicant.~~ A public hearing shall be held on each application
2 except as provided in subsection (2) of this section. The date
3 for hearing shall not be less than thirty days after the last
4 publication. Written protest against the issuance of the license
5 may be filed with the Department of Banking and Finance by any
6 person not less than five days before the date set for hearing. The
7 director, in his or her discretion, may grant a continuance. The
8 costs of the hearing shall be paid by the applicant. The director
9 may investigate the propriety of the issuance of a license to the
10 applicant. The costs of such investigation shall be paid by the
11 applicant.

12 (2) The director may waive the hearing requirements of
13 subsection (1) of this section if (a) the applicant has held and
14 operated under a license to engage in the delayed deposit services
15 business in Nebraska pursuant to the Delayed Deposit Services
16 Licensing Act for at least three calendar years immediately prior
17 to the filing of the application, (b) no written protest against
18 the issuance of the license has been filed with the department
19 within fifteen days after publication of a notice of the filing
20 of the application one time in a newspaper of general circulation
21 in the county where the applicant proposes to operate the delayed
22 deposit services business, and (c) in the judgment of the director,
23 the experience, character, and general fitness of the applicant
24 warrant the belief that the applicant will comply with the act.

25 (3) The expense of any publication made pursuant to this

1 section shall be paid by the applicant.

2 Sec. 24. Section 45-922, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 45-922 (1) The director may, following a hearing in
5 accordance with the Administrative Procedure Act, suspend or
6 revoke any license issued pursuant to the Delayed Deposit Services
7 Licensing Act if he or she finds:

8 (a) A licensee or any of its officers, directors,
9 partners, or members has knowingly violated the act or any rule,
10 regulation, or order of the director thereunder;

11 (b) A fact or condition existing which, if it had existed
12 at the time of the original application for such license, would
13 have warranted the director to refuse to issue such license;

14 (c) A licensee has abandoned its place of business for a
15 period of sixty days or more; ~~or~~

16 (d) A licensee or any of its officers, directors,
17 partners, or members has knowingly subscribed to, made, or caused
18 to be made any false statement or false entry in the books and
19 records of any licensee, has knowingly subscribed to or exhibited
20 false papers with the intent to deceive the Department of Banking
21 and Finance, has failed to make a true and correct entry in the
22 books and records of such licensee of its business and transactions
23 in the manner and form prescribed by the department, or has
24 mutilated, altered, destroyed, secreted, or removed any of the
25 books or records of such licensee without the written approval of

1 the department or as provided in section 45-925; ~~or-~~

2 (e) A licensee has knowingly violated a voluntary consent
3 or compliance agreement which had been entered into with the
4 director.

5 (2) Except as provided in this section, a license shall
6 not be revoked or suspended except after notice and a hearing in
7 accordance with the Administrative Procedure Act.

8 (3) (a) If a licensee fails to renew its license as
9 required by section 45-910 and does not voluntarily surrender the
10 license pursuant to section 45-911, the department may issue a
11 notice of expiration of the license to the licensee in lieu of
12 revocation proceedings.

13 (b) If a licensee fails to maintain a surety bond as
14 required by section 45-906, the department may issue a notice of
15 cancellation of the license in lieu of revocation proceedings.

16 (4) Revocation, suspension, cancellation, or expiration
17 of a license shall not impair or affect the obligation of a
18 preexisting lawful contract between the licensee and any person,
19 including a maker of a check.

20 (5) Revocation, suspension, cancellation, or expiration
21 of a license shall not affect civil or criminal liability for
22 acts committed before the revocation, suspension, cancellation,
23 or expiration or liability for fines levied against the licensee
24 or any of its officers, directors, shareholders, partners, or
25 members, pursuant to section 45-925, for acts committed before the

1 revocation, suspension, cancellation, or expiration.

2 Sec. 25. Section 45-1006, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 45-1006 (1) When an application for an original
5 installment loan license has been accepted by the director as
6 substantially complete, Except as provided in subsection (2) of
7 this section, a hearing shall be held on every application for
8 an original license under the Nebraska Installment Loan Act. The
9 hearing shall be held not less than thirty days after the filing
10 of the application, and notice of the filing of the application
11 shall be published by the department three successive weeks in
12 a legal newspaper published in or of general circulation in the
13 county where the applicant proposes to operate the business of
14 lending money. A public hearing shall be held on each application
15 except as provided in subsection (2) of this section. The date
16 for hearing shall not be less than thirty days after the last
17 publication. Written protest against the issuance of the license
18 may be filed with the department by any person not less than five
19 days before the date set for hearing. The director, in his or
20 her discretion, may grant a continuance. The costs of the hearing
21 shall be paid by the applicant. The director may ~~rejeet~~ deny any
22 application for license after hearing. The director shall, in his
23 or her discretion, make examination and inspection concerning the
24 propriety of the issuance of a license to any applicant. The cost
25 of such examination and inspection shall be paid by the applicant.

1 (2) The director may waive the hearing requirements of
2 subsection (1) of this section if (a) the applicant has held, and
3 operated under, a license to engage in the business of lending
4 money in Nebraska pursuant to the ~~act~~ Nebraska Installment Loan
5 Act for at least one calendar year immediately prior to the filing
6 of the application, (b) no written protest against the issuance of
7 the license has been filed with the department within fifteen days
8 after publication of a notice of the filing of the application one
9 time in a newspaper of general circulation in the county where the
10 applicant proposes to operate the business of lending money, and
11 (c) in the judgment of the director, the experience, character,
12 and general fitness of the applicant warrant the belief that the
13 applicant will comply with the ~~act~~ Nebraska Installment Loan Act.

14 (3) The expense of any publication made pursuant to this
15 section shall be paid by the applicant.

16 Sec. 26. Section 64-214, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 64-214 (1) It ~~shall be~~ is lawful for any stockholder,
19 ~~officer, or~~ director, officer, employee, or agent of a bank, who
20 is a notary public, to take the acknowledgment of any person to
21 any written instrument given to or by the bank and to administer
22 an oath to any other stockholder, director, officer, employee, or
23 agent of the bank.

24 (2) Acknowledgments heretofore taken of any person to any
25 written instrument given to or by a bank or any oath administered

1 to any stockholder, director, ~~or~~ officer, employee, or agent of
2 a bank by any notary public who was a stockholder, director, ~~or~~
3 officer, employee, or agent of said the bank shall be deemed to be
4 lawful, valid, and binding.

5 Sec. 27. Section 9-324, Uniform Commercial Code, Revised
6 Statutes Cumulative Supplement, 2006, is amended to read:

7 9-324 Priority of purchase-money security interests.

8 (a) Except as otherwise provided in subsection (g), a
9 perfected purchase-money security interest in goods other than
10 inventory or livestock has priority over a conflicting security
11 interest in the same goods, and, except as otherwise provided in
12 section 9-327, a perfected security interest in its identifiable
13 proceeds also has priority, if the purchase-money security interest
14 is perfected when the debtor receives possession of the collateral
15 or within thirty days thereafter.

16 (b) Subject to subsection (c) and except as otherwise
17 provided in subsection (g), a perfected purchase-money security
18 interest in inventory has priority over a conflicting security
19 interest in the same inventory, has priority over a conflicting
20 security interest in chattel paper or an instrument constituting
21 proceeds of the inventory and in proceeds of the chattel paper,
22 if so provided in section 9-330, and, except as otherwise provided
23 in section 9-327, also has priority in identifiable cash proceeds
24 of the inventory to the extent the identifiable cash proceeds are
25 received on or before the delivery of the inventory to a buyer, if:

1 (1) the purchase-money security interest is perfected
2 when the debtor receives possession of the inventory;

3 (2) the purchase-money secured party sends an
4 authenticated notification to the holder of the conflicting
5 security interest;

6 (3) the holder of the conflicting security interest
7 receives the notification within five years before the debtor
8 receives possession of the inventory; and

9 (4) the notification states that the person sending the
10 notification has or expects to acquire a purchase-money security
11 interest in inventory of the debtor and describes the inventory.

12 (c) Subdivisions (b)(2) through (4) apply only if the
13 holder of the conflicting security interest had filed a financing
14 statement covering the same types of inventory:

15 (1) if the purchase-money security interest is perfected
16 by filing, before the date of the filing; or

17 (2) if the purchase-money security interest is
18 temporarily perfected without filing or possession under section
19 9-312(f), before the beginning of the twenty-day period thereunder.

20 ~~(d)~~ (d)(1) Subject to subsection (e) and except as
21 otherwise provided in subsection (g), a perfected purchase-money
22 security interest in livestock that are farm products has priority
23 over a conflicting security interest in the same livestock, and,
24 except as otherwise provided in section 9-327, a perfected security
25 interest in their identifiable proceeds and identifiable products

1 in their unmanufactured states also has priority, if:

2 ~~(1)~~ (A) the purchase-money security interest is perfected
3 when the debtor receives possession of the livestock;

4 ~~(2)~~ (B) the purchase-money secured party sends an
5 authenticated notification to the holder of the conflicting
6 security interest;

7 ~~(3)~~ (C) the holder of the conflicting security interest
8 receives the notification within six months before the debtor
9 receives possession of the livestock; and

10 ~~(4)~~ (D) the notification states that the person sending
11 the notification has or expects to acquire a purchase-money
12 security interest in livestock of the debtor and describes the
13 livestock.

14 (2) For purposes of this subsection, possession means (A)
15 possession by the debtor or (B) possession by a third party on
16 behalf of or at the direction of the debtor, including, but not
17 limited to, possession by a bailee or an agent of the debtor.

18 (e) Subdivisions ~~(d)(2) through (4)~~ (d)(1)(B) through (D)
19 apply only if the holder of the conflicting security interest had
20 filed a financing statement covering the same types of livestock:

21 (1) if the purchase-money security interest is perfected
22 by filing, before the date of the filing; or

23 (2) if the purchase-money security interest is
24 temporarily perfected without filing or possession under section
25 9-312(f), before the beginning of the twenty-day period thereunder.

1 (f) Except as otherwise provided in subsection (g), a
2 perfected purchase-money security interest in software has priority
3 over a conflicting security interest in the same collateral, and,
4 except as otherwise provided in section 9-327, a perfected security
5 interest in its identifiable proceeds also has priority, to the
6 extent that the purchase-money security interest in the goods in
7 which the software was acquired for use has priority in the goods
8 and proceeds of the goods under this section.

9 (g) If more than one security interest qualifies for
10 priority in the same collateral under subsection (a), (b), (d), or
11 (f):

12 (1) a security interest securing an obligation incurred
13 as all or part of the price of the collateral has priority over a
14 security interest securing an obligation incurred for value given
15 to enable the debtor to acquire rights in or the use of collateral;
16 and

17 (2) in all other cases, section 9-322(a) applies to the
18 qualifying security interests.

19 Sec. 28. Section 9-506, Uniform Commercial Code, Reissue
20 Revised Statutes of Nebraska, is amended to read:

21 9-506 Effect of errors or omissions.

22 (a) A financing statement substantially satisfying the
23 requirements of this part is effective, even if it has minor errors
24 or omissions, unless the errors or omissions make the financing
25 statement seriously misleading.

1 (b) Except as otherwise provided in subsection (c), a
2 financing statement that fails sufficiently to provide the name
3 of the debtor in accordance with section 9-503(a) is seriously
4 misleading.

5 (c) If a search of the records of the filing office under
6 the debtor's correct name, or, in the case of a debtor who is
7 an individual, the debtor's correct last name, using the filing
8 office's standard search logic, if any, would disclose a financing
9 statement that fails sufficiently to provide the name of the debtor
10 in accordance with section 9-503(a), the name provided does not
11 make the financing statement seriously misleading.

12 (d) For purposes of section 9-508(b), the "debtor's
13 correct name" in subsection (c) means the correct name of the new
14 debtor.

15 Sec. 29. Sections 2, 3, 4, 8, 9, 19, 20, 21, 23, 24, 25,
16 28, and 30 of this act become operative three calendar months after
17 the adjournment of this legislative session. The other sections of
18 this act become operative on their effective date.

19 Sec. 30. Original section 8-224, Reissue Revised
20 Statutes of Nebraska, sections 8-116, 8-120, 8-122, 8-223, 45-703,
21 45-704, 45-907, 45-922, and 45-1006, Revised Statutes Cumulative
22 Supplement, 2006, section 45-702, Revised Statutes Supplement,
23 2007, and section 9-506, Uniform Commercial Code, Reissue Revised
24 Statutes of Nebraska, are repealed.

25 Sec. 31. Original sections 8-374, 8-2106, 25-202, and

1 64-214, Reissue Revised Statutes of Nebraska, sections 8-115.01,
2 8-143.01, 8-157, 8-234, 8-910, 8-1510, and 8-2102, Revised Statutes
3 Cumulative Supplement, 2006, sections 8-1,140, 8-355, 21-17,115,
4 and 45-722, Revised Statutes Supplement, 2007, and section 9-324,
5 Uniform Commercial Code, Revised Statutes Cumulative Supplement,
6 2006, are repealed.

7 Sec. 32. The following section is outright repealed:
8 Section 30-3206, Reissue Revised Statutes of Nebraska.

9 Sec. 33. Since an emergency exists, this act takes effect
10 when passed and approved according to law.